

# Murray, Frank & Sailer LLP

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**M**URRAY, FRANK & SAILER LLP specializes in class action litigation, particularly in cases involving federal securities law, federal antitrust law, and state consumer protection law. The Firm traces its origin to 1963 with its lawyers having been involved in seminal class actions since then.

### SECURITIES FRAUD

Murray, Frank & Sailer has been lead or co-lead counsel in securities actions throughout the United States, including the following:

*In re Wedtech Corp. Securities Litigation* (S.D.N.Y.) (recovery of \$77.5 million); *In re JWP Inc. Securities Litigation* (S.D.N.Y.) (\$40 million); *In re PictureTel Inc. Securities Litigation* (D. Mass.) (\$14 million); *In re Marion Merrell Dow Inc. Securities Litigation* (W.D. Mo.) (\$14 million); *LaVallie v. Owens-Corning Fiberglas Corp.* (N.D. Ohio) (\$10 million); *In re USX Securities Litigation* (W.D. Pa.) (\$9 million); *Miller v. Bonmati* (Del. Ch.) (\$9.9 million); *Feiner v. SS&C Tech., Inc.* (D. Conn.) (\$8.8 million).

### ANTITRUST

The Firm also represents plaintiffs in federal and state class actions arising out of applicable anti-trust laws, including the *Infant Formula*, *Brand Name Pharmaceutical*, *Nasdaq*, *VISA/Master-Card*, *Playmobil*, and *Disposable Contact Lens* cases.

In the *Playmobil* Case, Murray, Frank & Sailer was co-lead counsel, representing a class of purchasers of Playmobil products. Murray, Frank & Sailer was successful in obtaining certification of a plaintiff class in an oft-cited opinion and settling the case on favorable terms to the class. The Court, at the fairness hearing, “compliment[ed] both counsel in the fine job done negotiating with each other and also the legal work that has been submitted to the Court.” In the *Disposable Contact Lens* case, Murray, Frank & Sailer represented a class of purchasers of disposable contact lenses in California, and eventually obtained reversal in the California appellate courts of a denial of class certification.

**CONSUMER PROTECTION**

In addition, the Firm has been lead counsel representing classes of consumers in cases involving wireless communications, imported olive oil, and improper brokerage fees. The Firm recently recovered benefits worth \$40 million in *Naevus Int'l v. AT&T Corp., et al.*, a consumer class action brought in New York State Supreme Court on behalf of consumers who subscribed to AT&T's Digital One-Rate wireless service.

## THE PARTNERS

**BRIAN MURRAY**, a partner, was admitted to the Connecticut bar in 1990, to the bars of the New York and the United States District Courts for the Southern and Eastern Districts of New York in 1991, the bars of the Second Circuit in 1997 and the First and Fifth Circuit in 2000. He received B.A. and M.A. degrees from the University of Notre Dame in 1983 and 1986, respectively. He received a J.D. degree, *cum laude*, from St. John's University School of Law in 1990. At St. John's, he was the Articles Editor of the ST. JOHN'S LAW REVIEW. Mr. Murray co-wrote *The Accident of Efficiency: Foreign Exchanges, American Depository Receipts, and Space Arbitrage*, 51 BUFFALO L. REV. 383 (2003); *You Shouldn't Be Required To Plead More Than You Have To Prove*, 53 BAYLOR L. REV. 783 (2001); *He Lies, You Die: Criminal Trials, Truth, Perjury, and Fairness*, 27 NEW ENGLAND JOURNAL ON CIVIL AND CRIMINAL CONFINEMENT 1 (2001); *Subject Matter Jurisdiction Under the Federal Securities Laws: The State of Affairs After Itoba*, 20 MARYLAND JOURNAL OF INTERNATIONAL LAW AND TRADE 235 (1996); *Determining Excessive Trading in Option Accounts: A Synthetic Valuation Approach*, 23 U. DAYTON L. REV. 316 (1997); and *The PSLRA 'Automatic Stay' of Discovery*, NEW YORK LAW JOURNAL (March 3, 2003). He also authored *Aftermarket Purchaser Standing Under § 11 of the Securities Act of 1933*, 73 ST. JOHN'S L. REV. 633 (1999); *Recent Rulings Allow Section 11 Suits By Aftermarket Securities Purchasers*, NEW YORK LAW JOURNAL (September 24, 1998); and Comment, *Weissmann v. Freeman: The Second Circuit Errs in its Analysis of Derivative Copyrights by Joint Authors*, 63 ST. JOHN'S LAW REVIEW 771 (1989).

Mr. Murray's major cases include *Feiner v. SS&C Tech., Inc.*, 11 F. Supp. 2d 204 (D. Conn. 1998) (qualified independent underwriters held liable for pricing of offering); *Malone v. Microdyne Corp.*, 26 F.3d 471 (4<sup>th</sup> Cir. 1994) (reversal of directed verdict for defendants); and *Adair v. Bristol Tech. Systems, Inc.*, 179 F.R.D. 126 (S.D.N.Y. 1998) (aftermarket purchasers have standing under section 11 of the Securities Act of 1933), in which Judge Sweet stated plaintiffs' counsel were "skilled advocates and negotiators," 1999 WL 1037878, at \*3 (S.D.N.Y. 1999). Mr. Murray also prevailed on an issue of first impression in the Superior Court of Massachusetts, in *Cambridge Biotech Corp. v. Deloitte and Touche LLP*, in which the court applied the doctrine of continuous representation for statute of limitations purposes to accountants for the first time in Massachusetts. 6 Mass. L. Rptr. 367 (Mass. Super. Jan 28, 1997). In addition, in *Adair v. Microfield Graphics, Inc.* (D. Or.), Mr. Murray settled the case for 47% of estimated damages and the Court noted "Plaintiff's counsel have exhibited a high quality of work in prosecuting this action."

Mr. Murray was a Trustee of the Incorporated Village of Garden City (2000-2002); Commissioner of Recreation for Garden City (2001-2002); Commissioner of Police for Garden City (2000-2001); Member, Sports Law Committee, Association of the Bar for the City of New York, 1994-1997; Member, Litigation Committee, Association of the Bar for the City of New York, 2003-.

Mr. Murray has been a panelist at a CLE sponsored by the Federal Bar Counsel and will be a panelist at an upcoming CLE sponsored by the Institute for Law and Economic Policy.

**MARVIN L. FRANK**, the managing partner, was admitted to the New York, New Jersey, and the United States District Court for the District of New Jersey bars in 1991, to the bars of the United States District Courts for the Southern and Eastern Districts of New York in 1992, to the bars of the Second Circuit in 1998 and Seventh Circuit in 1999, and to the bar of the United States Supreme Court in 2004. He graduated with a B.A. degree from The City College of New York in 1969, an M.B.A. degree from Bernard M. Baruch College in 1974, and received his J.D. degree, *magna cum laude*, from New York Law School in 1991. At New York Law School, he received the Kaplun Foundation Award For Academic Excellence.

Mr. Frank's major cases include *Miller v. Bonmati*, Del. Ch., C.A. No. 15849, Lamb, V.C. (March 18, 1999), in which the Court stated "I am quite pleased by the work that was done by the plaintiffs' counsel. They seem to have done a very professional job of dealing with a difficult situation and have obtained, from everything I can ascertain from the record in front of me, quite a beneficial settlement that gives an opportunity for this situation to work itself out."; *In re JWP Inc. Securities Litigation* (S.D.N.Y.) (recovery of approximately \$40 million); *In re Marion Merrell Dow Inc. Securities Litigation* (W.D. Mo.) (\$14 million); *In re PictureTel Inc. Securities Litigation* (D. Mass) (\$14 million); *In re ContiFinancial Securities Litigation* (S.D.N.Y.) (\$5.5 million); *In re Quintiles Transnational Securities Litigation* (M.D.N.C.) (\$3 million).

**JACQUELINE SAILER**, a partner, was admitted to the Delaware bar in 1990, to the bar of the United States District Court for the District of Delaware in 1991, to the bars of the State of New York and the United States District Courts for the Southern and Eastern Districts of New York in 1996, to the bars of the United States Court of Appeals for the Sixth Circuit and the United States District Court for the District of Colorado in 1997, and to the bar of the United States Court of Appeals for the Second Circuit in 1998. She graduated with honors from Smith College with a B.A. degree in 1985. She received a J.D. degree from St. John's University School of Law in 1990. While attending law school, Ms. Sailer interned with the United States Attorneys' Office for the Eastern

District of New York and the United States Securities and Exchange Commission. Ms. Sailer is fluent in French and German.

Prior to joining Murray, Frank & Sailer, Ms. Sailer was an associate at Richards, Layton and Finger, a pre-eminent Delaware corporate law firm. While at Richards, Ms. Sailer tried the case of *Samick Music Corp. v. Delaware Music Indus. Inc.* (D. Del.), in which she successfully obtained a jury award on a breach of contract claim.

Ms. Sailer was responsible for the recent recovery of \$40 million worth of benefits for a plaintiff class of wireless consumers in a consumer class action, *Naevus Int'l, Inc. v. AT&T Corp.* Her major cases as lead counsel include *Naevus Intl., Inc. v. AT&T Corp.*, 713 N.Y.S.2d 642 (Sup. Ct. New York Co. 2000) (establishing limits on the reach of the Federal Communications Act on state consumer fraud claims), in which she successfully argued and opposed a motion to dismiss on behalf of a class of current and former subscribers to AT&T's wireless service; and a federal securities class action, *Kinney v. Metro Global Media, Inc.*, 170 F. Supp. 2d 173 (D.R.I. 2001) (addressing the pleading standard for fraud under the Private Securities Litigation Reform Act of 1995 for claims against an auditor, an issue of first impression in the District of Rhode Island), in which she successfully argued and opposed an auditor's motion to dismiss claims under Section 10(b) of the Securities Exchange Act of 1934.

### **THE ASSOCIATES**

**ERIC J. BELFI**, an associate, was admitted to the bars of the State of New York and the United States District Court for the Southern and Eastern Districts of New York in 1996. He graduated from Georgetown University with a B.A. degree in 1992 and received a J.D. degree from St. John's University School of Law in 1995.

Prior to joining Murray, Frank & Sailer, Mr. Belfi worked as Assistant Attorney General for the State of New York and Assistant District Attorney for the County of Westchester. As a prosecutor, Mr. Belfi investigated and prosecuted numerous white-collar crime cases, including securities violations.

Mr. Belfi is an associate prosecutor for the Village of New Hyde Park. He is a member of the Federal Bar Counsel and the Association of the Bar for the City of New York.

**GREGORY B. LINKH**, an associate, was admitted to the bars of the State of New York and the United States District Court for the Southern and Eastern Districts of

New York in 2000. He graduated from the State University of New York at Binghamton with a B.A. degree in 1996 and received a J.D. degree from the University of Michigan in 1999.

Prior to joining Murray, Frank & Sailer, Mr. Linkh was associated with the law firms Dewey Ballantine LLP and Pomerantz Haudek Block Grossman & Gross LLP.

**DONALD J. WALLACE**, an associate, was admitted to the New York bar in 1992. He earned a B.S. from the New York Institute of Technology in 1987, and a J.D. from St. John's University School of Law in 1991. While at St. John's, he was a member of the Law Review and was awarded the American Jurisprudence Award for Contracts I. He co-authored *You Shouldn't Be Required To Plead More Than You Have To Prove*, 53 BAYLOR L. REV. 783 (2001); *Jehovah's Witnesses and the Refusal of Blood Transfusions: A Balance of Interests*, 33 CATHOLIC LAWYER 361 (1991). Prior to entering law school, Mr. Wallace was a licensed stockbroker in Garden City, New York.

**BRIDGET V. HAMILL**, an associate, was admitted to the New Jersey bar in 2001 and awaits admission to the New York bar. She received a J.D. degree in 2000 from Rutgers School of Law and a B.A. from Douglass College of Rutgers University in 1985. Prior to joining Murray, Frank & Sailer, Ms. Hamill was law clerk to U.S. Magistrate Judge Mark Falk in the District of New Jersey. While attending law school, she was an employee stock options/stock purchase plan administrator in New York City. Prior to entering law school, Ms. Hamill was a health care information systems manager.

**AARON D. PATTON**, an associate, was admitted to the bar of the State of New York in 2003. He graduated from San Jose State University *magna cum laude* with a B.A. degree in 1997 and received his J.D. degree from the University of Wisconsin in 2001. Prior to joining Murray, Frank & Sailer, Mr. Patton was a licensed equity trader at a private securities firm in New York's financial district.

**JEFFREY M. RUBINSTEIN**, an associate, is awaiting admission to the bar of the State of New York. He graduated from Columbia University with a B.A. degree in 2000 and received a J.D. degree from New York Law School in 2003 where he was elected Student Body President. At Commencement, Mr. Rubinstein received with the Dean's Award for Outstanding Student Leadership.

**ALEXANDER E. MAURILLO**, an associate, was admitted to the bar of the State of Connecticut in 2003. He graduated from St. Lawrence University with a B.A. in 1987 and received his J.D. degree from New York Law School in 2002.